# IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL NO. 117 OF 2006

SHRI SAVIO MESSIAS AND ANR., ....Appellants

Versus

M/S M.K.S. ENGG. WORKS REP.BY SHRI MOHAN KUMAR SINGH, VASCO. ....Respondent

Mr. G. Vijaychandran, for the Appellants.

Mrs. Anita A. Thorat For Resp.

Coram:- S.A.BOBDE, J.

Date:- 8th March, 2007

ORAL JUDGMENT:

This Second Appeal is against the Judgment and Decree of the Appellate Court which has upheld the Judgment of the Trial Court. In the result, both the Courts below have decreed the respondent's Suit for recovery of money for work done in the appellant's hotel.

2. Admittedly, the trial Court allowed evidence to be led in respect of the Issues and held the case of the respondent to be proved and thereupon decreed the Suit. The Appellate Court upheld the Judgment and Decree of the Trial Court. While so upholding, the Appellate Court referred to the defence taken by the appellants in the written statement and found that there is no specific denial on several aspects which are referred to by the Appellate Court in paragraph 8 of its Judgment. The Appellate Court observed that the written statement is silent about the material details regarding the respondent's allegation that they submitted a bill to one Vijay who, apparently, worked in the appellants' hotel. The Appellate Court, therefore, took the view that the denial about material facts such as the stamp on the bill and whether the bill was received by the appellants

are matters of substance in the case and must be specifically denied, failing which they should be taken to be admitted. Apart from the above, the Appellate Court has considered the evidence led by the parties in paragraph 10 onwards.

3. The learned Counsel for the appellants submits that the Appellate Court wrongly proceeded to uphold the Judgment and Decree of the trial Court only on the basis of the admissions.

4. I find, from reading the Judgment of the Appellate Court that it is not so. The Appellate Court has indeed referred to certain facts which must be taken to have been admitted since there is no specific denial in the written statement. However, the Appellate Court has also applied its mind to the evidence on record and found it appropriate to uphold the Judgment of the trial Court.

5. In this view of the matter, no substantial question of law arises in the Second Appeal and there is no reason to interfere with the Judgments of the Courts below.

Second Appeal is dismissed.

S.A.BOBDE, J.

sl.